

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JOHNEY LEE LAMPROE

PLAINTIFF

v.

Civil No. 05-5213

TIM HELDER, Sheriff, Washington
County, Arkansas

DEFENDANT

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, Johny Lee Lamproe, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 30, 2005. He proceeds in forma pauperis (IFP) and pro se.

In his complaint, Lamproe alleges his federal constitutional rights were violated when he was arrested and held in the Washington County Detention Center (WCDC) for over twelve days before being taken before a judge. In his addendum, Lamproe indicates he was arrested on February 19, 2005. *Addendum* at ¶ 1. He was charged with possession of a controlled substance, manufacturing a controlled substance, and manufacturing methamphetamine in the presence of a minor. *Id.* at ¶ 2.

These charges were the sole reason Lamproe was incarcerated. *Addendum* at ¶ 3. Lamproe maintains he was not brought before the judge for a first appearance within seventy-two hours as is required by Rule 8.1 of the Arkansas Rules of Criminal Procedure. *Id.* at ¶ 4. He contends this violated his federal constitutional rights.

By order entered on February 3, 2006, the undersigned added Tim Helder, the Washington County Sheriff, as a defendant and directed service on him. (Doc. 9). That same

day, a report and recommendation was entered recommending dismissal of all claims against Judge William Storey, the State of Arkansas, Washington County, Arkansas, Leanna Houston, a public defender, and Bill Jones, a prosecuting attorney. (Doc. 10). On March 3, 2006, Sheriff Helder filed an answer. (Doc. 14). On May 16, 2006, the Honorable Jimm Larry Hendren, the United States District Judge to whom this case is assigned, adopted the report and recommendation and dismissed all defendants except Sheriff Helder. (Doc. 16).

The court has now been orally advised by counsel for the defendant that the plaintiff and Sheriff Helder have reached a settlement. In view of the settlement, I recommend that the case be dismissed with prejudice.

The parties have ten days from receipt of this report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 1st day of June 2006.

/s/ Beverly Stites Jones
UNITED STATES MAGISTRATE JUDGE